

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LANCE THORNTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 1:23-cv-164
	)	
STEVEN DELUCA, JOHN DOE 1,	)	JUDGE CATHY BISSOON
JOHN DOE 2, JOHN DOE 3,	)	
JOHN DOE 4, JOHN DOE 5,	)	(Electronic Filing)
JOHN DOE 6, JOHN DOE 7,	)	
JOHN DOE 8, JOHN DOE 9,	)	
JOHN DOE 10, AND CITY OF ERIE,	)	
PENNSYLVANIA,	)	
	)	
Defendants.	)	

**CONSENT TO STAY MOTION FOR SUBSTITUTION OF PARTY**

Defendant DeLuca,<sup>1</sup> by his attorneys, Eric G. Olshan, United States Attorney for the Western District of Pennsylvania, and Kezia O. L. Taylor, Assistant United States Attorney, files this Consent to Stay Defendant's Motion for Substitution of Party in response to Plaintiff's Answer to Motion for Substitution of Party.

On March 24, 2023, Plaintiff certified to the Erie County Court of Common Pleas that the nature of his lawsuit was an "intentional tort" among the forty-six (46) choices he could have selected from within the seven (7) categories offered.<sup>2</sup> ECF No. 1-2. However, in Plaintiff's

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<sup>1</sup> Because Plaintiff speculates that he may advance a *Bivens* cause of action in his Brief in Opposition to Defendant's Motion for Substitution (ECF No. 8, pp. 4-6), Defendant DeLuca is in the process of obtaining representation approval from the Department of Justice pursuant to 28 C.F.R. § 50.15(a)(2).

<sup>2</sup> Additionally, on the Civil Cover Sheet completed by Plaintiff, each of the seven categories include "other" next to two blank spaces where Plaintiff could have written in other causes of action; Plaintiff did not assert any other cause of action.

Answer to Motion for Substitution of Party, he speculates that he might not advance a tort claim but, rather, bring a *Bivens* claim against the law enforcement officers, including Defendant DeLuca. ECF No. 7, ¶ 5. With due consideration for Plaintiff's speculation that he might not advance a tort claim, Defendant DeLuca consents to stay its Motion for Substitution of Party (ECF No. 2) until such time that Plaintiff files his complaint. In fact, Defendant DeLuca will file a motion for administrative closure of this case until Plaintiff files his complaint.

Respectfully submitted,

ERIC G. OLSHAN  
United States Attorney

/s/ Kezia Taylor  
KEZIA O. L. TAYLOR (PA 203759)  
Assistant U.S. Attorney  
Western District of Pennsylvania  
Joseph F. Weis, Jr. U.S. Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219  
Tel.: (412) 894-7567  
Fax: (412) 644-6995  
Email: [kezia.taylor@usdoj.gov](mailto:kezia.taylor@usdoj.gov)  
*Counsel for Defendant DeLuca*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of June, 2023, a true and correct copy of the within Consent to Stay Motion for Substitution of Party was served by electronic filing and/or postage-paid U.S. Mail, upon the following:

Timothy D. McNair, Esquire  
McNair Law Offices, PLLC  
821 State Street  
Erie, PA 16501  
[tmcnair@mcnairlaw.com](mailto:tmcnair@mcnairlaw.com)  
*Counsel for Plaintiff*

Edward J. Betza, Esquire  
City of Erie, Office of Solicitor  
City Hall, Room 505  
626 State Street  
Erie, PA 16501  
*Counsel for City of Erie*

/s/ Kezia Taylor  
KEZIA O. L. TAYLOR  
Assistant U.S. Attorney